

File No. 1000-56/2004-WFD
Government of India
Ministry of Communications & IT
Department of Telecommunications
Sanchar Bhawan, New Delhi-110001
(WPF Wing)

Dated // .11.2014.

OFFICE MEMORANDUM

Sub: Procedure of Assessment of Spectrum Usage Charges (SUC).

The work of assessment of Spectrum Usage Charges has been decentralized to Pr. Controllers/Controllers of Communication Accounts vide this office letter of even No. ^{dx}5th February, 2013. The guidelines for the assessment of spectrum usage charges are issued as under:

1. It has been decided to complete the assessment for SUC separately by the respective offices of Pr. Cs CA/ CsCA from the FY 2012-13 in respect of Access , Microwave Access and Microwave Bone spectrum used by the Licensees for mobile services through CDMA and GSM technologies.
2. **Basis of Assessment:** Spectrum Usage Charges are levied as a % of AGR for the use of spectrum by the service providers. Three form of spectrum i.e. Access Spectrum, Microwave Access and Microwave Back Bone Spectrum are used by the Telecom Service providers for providing mobile service through CDMA and GSM technologies at present.

Assessment of due Spectrum Usage Charges is based on AGR, Rate (depending upon the quantum), payment, interest and penalty etc. All the issues except rate for spectrum are common in both the technologies. The procedure for assessment of SUC in respect of the above stated Spectrum used for mobile services through CDMA and GSM technologies is elaborated as under:

3. Assessment of SUC in respect of Access Spectrum (Main Radio Spectrum) :

The various activities relating to assessment are submitted as under:

3.1.1 Opening Balance:- The rates of Spectrum Usage Charges prescribed vide No. P-11014/18/2008-PP dt 25-02-2010 for Access Spectrum are subjudice. Moreover Licensees have filed Petitions against AGR as per the direction of Honb'le SCI. Hence the assessment has been completed provisionally. The Opening Balance as on 01-04-2012 in respect of Licensees providing mobile services through CDMA/GSM Technology will be sent to respective Pr. CsCAs and CsCAs after the final assessment of Spectrum Usage Charges upto 2011-12. Hence OB as on 1-04-2012 may be considered provisionally as nil.

3.1.2. Adjusted Gross Revenue(AGR):

AGR is submitted by the Licensees in the format prescribed in the License Agreement. There is no provision in the License agreement for submission of distinct AGR for levy of License Fee and Spectrum Usage Charges. Admissible deductions including Wire line Revenue are deducted from the Gross Revenue. It is clarified that the AGR is common for all three types of spectrum, i.e. Access Spectrum, Microwave Access and Microwave Back Bone Spectrum as stated at para 2 above. The procedure for arriving at AGR in respect of UAS licensees using Single Technology & UAS licensees using Dual Technology i.e. GSM /CDMA is as under:

3.1.3. UAS Licensees Using Single Technology :

(a)) Procedure for Calculation of AGR: This procedure involves three stages i.e. Apportionment of Miscellaneous Revenue, treatment of Wireline revenue and admissible deductions. At first stage Miscellaneous Revenue is to be apportioned on prorata basis to arrive at Gross Revenue separately for wireless and Wireline Revenue. AGR is arrived at by applying/ following procedure enumerated in License Agreement and clarification issued vide No. 20-240/2006-AS-1 dt 26th February, 2010

(a) As per clause 19.1 of License Agreement, While calculating 'AGR' for limited purpose of levying spectrum charges based on Revenue Share, revenue from wire line subscribers shall not be taken into account.

Clarification on treatment of wire line revenue for levy of Spectrum Usage Charges has been issued vide No. 20-240/2006-AS-1 dt 26th February, 2010. Accordingly revenue from wireline subscribers (including apportioned amount of Miscellaneous income) may be deducted from the Gross Revenue to calculate AGR.

(b) As per clause 19.2 of License Agreement, deductions applicable to wireless revenue will be deducted from Gross Revenue for arriving at AGR in the following manner:

(i) Deduction claimed by the Licensee in respect of CDMA service on provisional basis subject to finalization of AGR by LF Wing of DoT, HQ and communicated by WPF Wing

(ii) If consolidated deductions are provided by the Licensee, the admissible deduction will be calculated proportionately as under:

Deduction = Total deduction * Revenue of Wireless / Gross Revenue

3.3.4. UAS Licensees Using Dual Technology DT Licensees (Service providers offering services using CDMA and GSM Technologies)

3.3.4.1 Procedure of AGR Calculation: - (a) Calculation of AGR involves three stages i.e. Apportionment of Miscellaneous Revenue, treatment of Wireline revenue and Admissible Deductions. At first stage Miscellaneous revenue is to be apportioned on prorata basis to arrive at Gross Revenue separately for CDMA, GSM and Wireline Revenue. AGR is arrived

at by applying/ following procedure enumerated in License Agreement and clarification issued vide No. 20-240/2006-AS-1 dt 26th February, 2010

(b) As per clause 19.1 of License Agreement, While calculating 'AGR' for limited purpose of levying spectrum charges based on Revenue share, revenue from wire line subscribers shall not be taken into account.

(c) As per clause 19.2 of License Agreement, deductions applicable to wireless revenue will be deducted from Gross Revenue for arriving at AGR .

The procedure of apportionment of miscellaneous revenue to the revenue , treatment of wireline revenue and admissible deductions and calculation of AGR, considering the figures of revenue provided by a particular Licensee from CDMA , GSM and Wire line service has been explained in Annexure-A:

4. Payment of Spectrum Usage Charges .

As per clause 18.3.1 (Clause number may vary from agreement to agreement) of the License Agreement the Licensee shall pay the Spectrum Usage Charges. The extracts of the relevant clause is reproduced below:

“The Fee/royalty payable towards WPC Charges shall be payable at such time(s) and in such manner as the WPC Wing of DoT may prescribe from time to time.”

In the light of above provisions of agreement WPC Wing issued order for the payment of WPC spectrum charges by GSM Licensees vide order No.L-14047/07/2002-NTG dt 26-03-2002 and by Basic Telephone Service (CDMA) Providers vide their letter No14025/01/2001-NT dated 03-04-2002. The key guidelines of these orders are as under:

(i) As per the above orders of WPC Wing the spectrum usage charges shall be payable on quarterly basis in advance i.e 15 days of the commencement of each quarter.

(ii) Penal interest will be levied as per existing practice and procedure in vogue for delayed receipt of payments as applicable and on the same terms and conditions contained under main DoT licence agreement, and

(iii) Financial settlement/accounting of spectrum charges based on audited AGR's (subject to physical verification) shall now be undertaken on financial year basis on the same lines, procedures/terms and conditions as for the main DoT License Agreement.

In the light of above provisions contained in orders issued by WPC Wing stated above all the Financial conditions of License agreement given in “PART-III FINANCIAL CONDITIONS” are applicable on settlement of spectrum usage charges.

(iv) As per clause 20.3 of License Agreement, the Licensee shall adjust and pay the difference between the payment made and actual amount duly payable (on accrual basis) for the last quarter of financial year within 15 days of the end of the quarter.

(v) **Consideration of Payment made by the Licensees** :- The payments made by the Licensees are to be considered as per the declaration of the Licensee. Spectrum Usage charges are to be assessed separately in **respect of Access, MWA & MWB spectrum**. Firstly the due amount of SUC for MWA & MWB be adjusted from the payment made by the licensee. The balance amount paid by the licensee will be considered against the due amount of spectrum usage charges in respect of Access Spectrum.

(vi) **Excess Payment of SUC**: Excess Payment of SUC made during a quarter is adjusted against the outstanding dues of the next quarter but in no case this amount can be refunded.

Moreover the closing balance as on 31st March of any financial year will not be carried forward to the next financial year till the final assessment of Spectrum Usage Charges.

5. **Levy of Interest** : As per clause 20.5 of License Agreement, any delay in payment of License fee or any other dues payable under the License beyond the stipulated period will attract interest at a rate which will be 2% above the Prime Lending Rate (PLR) of State bank of India existing as on beginning of the financial year (namely 1st April) in respect of SUC pertaining to the said financial year which will remain constant up to the month of payment

Interest shall be compounded monthly and a part of the month shall be reckoned as a full month for the purpose of calculation of interest. A month shall be reckoned as an English calendar month.

6. **Penalty**: As per License Agreement, in case, the total amount paid as quarterly SUC for the four quarters of the financial year, falls short by 10% of the payable SUC, it shall attract a penalty of 50% of the entire amount of short payment. However, if such short payment is made good within 60 days from the last day of the financial year, no penalty shall be imposed. This amount of penalty shall be payable within 15 days of the date of signing the audit report on the annual accounts, failing which interest shall be further charged as per terms of relevant clause of agreement.

7. **Assessment of Spectrum Usage Charges**: Based on above guidelines assessment of Spectrum Usage Charges may be completed as under:

(a) **Provisional quarterly Assessment**: During this process field units will ensure that the payment made by the Licensees is as per information disclosed in affidavit submitted by the Licensees. It is also to be ensured that the payment has been made as per the applicable rate of Spectrum Usage Charges. The licensees may be asked to make the deficit payment of SUC, if any, based on documents furnished by them for current quarter and for previous quarter. In case of non payment of this amount FBG submitted by the

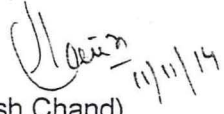
respective licensee may be en-cashed, after following due procedure as communicated vide letter of even no dt 19-05-2011..

(b) Annual Provisional assessment based on Audited AGR: The provisional assessment based on Audited AGR, submitted by the licensee, may be completed by field units as per directions issued by this office vide letter of even number dated 6.2.2013, as per procedure prescribed above.

(c) Annual assessment based on Finalized AGR: The Final assessment of SUC based on AGR Finalized by LF Wing DoT HQ, duly communicated by WPF Wing of DoT HQ may be assessed considering the above stated procedure..

8. Assessing Authority and Grievances redressal: The assessing authority and redressal mechanism has already been issued by this office vide letter of even No. dated 6.2.2013.

Encl : As above.


(Harish Chand)
Assistant Director General (WR)
T. No. 23036362

TO

All PCs CA/ Cs CA

Copy for information to:

1. PPS to Secretary (T)
2. PPs to Member (F)/ Member (T)/Member(S)
3. PPS to Advisor (F)
4. PPS to Wireless Adviser
5. The Chief Vigilance Officer, DoT
6. DG, NICF/ NTIPRIT.
7. DDG (TPF& Accounts)
8. DDG (LF-I)
9. DDG (LF-II)
10. DDG (AS-1)
- ✓ 11. Director (IT) for uploading the order.
12. Director (Reports) O/o DG (P&T) Sham Nath Marg, Civil Lines for information.
13. All TSPs for information.

ANNEXURE -A

Procedure of AGR Calculation: - In the light of instructions contained in Para 3.3.4.1 of OM No File No. 1000-56/2004-WFD dt *11-11-2014* the procedure of apportionment of miscellaneous revenue to the revenue , treatment of wireline revenue and admissible deductions and calculation of AGR, considering the figures of revenue provided by a particular Licensee from CDMA , GSM and Wire line service is explained through following example .

1. Apportionment

(a) CDMA:

Sl.No.	Particulars of Revenue	Rs.
1	Gross revenue reported by the Licensees for CDMA in AGR for Q-1 (Fig given at D(a)4) of Revenue Statement.	110,44,49,891
2	Add Roaming Revenue on account of visiting subscribers from other network (CDMA) (Fig given at D(a)4(iv)) of Revenue Statement.	2,18,91,922
3	Add Total revenue from WLL subscribers (fixed) (Fig given at B(a) of Revenue Statement.	14,21,48,799
4	Total CDMA Revenue	126,84,90,612
5	If Miscellaneous revenue is Rs.3,31,62,411 as given in at Col No 11 of revenue statement and GR excluding miscellaneous revenue (265,49,36,016 - 3,31,62,411) is 262,17,73,605 the proportionate Misc revenue attributable to CDMA is as below Add proportionate miscellaneous Revenue (Fig given at D(a)4.11= $3,31,62,411 \times 126,84,90,612 / 262,17,73,605$ = Rs. 1,60,44,943/-	1,60,44,943
	Gross Revenue from CDMA (X)	128,45,35,555

(b) GSM:

Sl. No.	Particulars of Revenue	Rs.
1	Gross revenue reported by the Licensees for GSM in Revenue statement for Q-1 (Fig given D(a)4)	93,03,63, 894
2	Add Roaming Revenue on account of visiting subscribers from other network (GSM) (Fig given D(a)4(iv))	1, 77,50,743
3	Total GSM Revenue (1+2)	94,81,14, 637
4	If Miscellaneous revenue is Rs.3,31,62,411 as given in at Col No 11 of revenue statement and GR excluding miscellaneous revenue (265,49,36,016 - 3,31,62,411) is 262,17,73,605 the proportionate Misc revenue attributable to GSM is as below	1,19, 92,557

	Add proportionate miscellaneous Revenue = 33162411*94,81,14,637 / 262,17,73,605=Rs.1,19,92,556.185 rounded off Rs. 1,19,92,557.	
5	Gross Revenue from GSM (Y)	96,01,07,194

Note: If the revenue from Roaming has not been separately provided by the Licensee, then the revenue from roaming will be apportioned among the revenue from CDMA and GSM in the same manner as per the procedure of apportionment of Miscellaneous Revenue, shown at sl. no 5 of the table (a) for CDMA and and shown at sl. no. 4 of the table (b) GSM services.

(c) Wire Line Revenue:

Sl.No.	Particulars of Revenue	Rs.
1	Gross revenue from Wireline subscribers reported by the Licensees for Wireline in Revenue statement for Q-1 (Fig given at A(c)) of Revenue statement.	40,51,68,355
2	If Miscellaneous revenue is Rs.3,31,62,411 as given in at Col. No. 11 of revenue statement and GR excluding miscellaneous revenue (265,49,36,016 - 3,31,62,411) is 262,17,73,605, the proportionate Misc revenue attributable to Wire line is as below: Add proportionate miscellaneous Revenue = 3,31,62,411* 40,51,68,355 / 262,17,73,605=Rs.51,24,912.	51,24,912
3	Gross Revenue from WireLine (Z)	41,02,93,267

Total Gross Revenue from all the technologies (viz. CDMA (X) + GSM (Y) and Wire line Revenue (Z)) =128,45,35,555 + 96,01,07,194 + 41,02,93,267=265,49,36,016. This must tally with the figure of GR shown against Col AA of the Revenue Statement.

2 (a) Calculation of GR for CDMA: GR will be calculated as under:

GR for CDMA= Gross Revenue [given at Sl. No AA of Revenue statement) - (Revenue from Wire line Subscribers, shown at Z above + Revenue from GSM based Mobile service, shown at 'Y' above .

As per this procedure the GR from CDMA service= 265,49,36,016 – (41,02,93,267 + 96,01,07,194) = 128,45,35,555.

(b) Calculation of AGR for CDMA: Admissible deductions will be allowed as under for calculation of AGR.

(i) Deduction claimed by the Licensee in respect of CDMA service on provisional basis subject to finalization of AGR by LF Wing of DoT, HQ and communicated by WPF Wing.

(ii) In case consolidated deductions for both CDMA and GSM services are provided by the Licensee, the admissible deduction will be calculated proportionately as under:

Deduction = Total deduction (given at Sl. No BB of Revenue statement)*Revenue of CDMA "shown at 'X' above / Gross Revenue (given at Sl. No AA of Revenue Statement)

=45,56,28,599*128,45,35,555/265,49,36,016=22,04,46,418

AGR for CDMA = 128,45,35,555 - 22,04,46,418=106,40,89,137.

(a) **Calculation of GR for GSM:** GR will be calculated as under:

GR for GSM= Gross Revenue (given at Sl. No AA of Revenue statement) – [(Revenue from Wireline Subscribers. shown at Z at para 3.1.2.1(c) + Revenue from CDMA based Mobile service” shown at X at para 3.1.2.1(a))]

As per this procedure the GR from GSM service=265,49,36,016–(41,02,93,267 +128,45,35,555) = 96,01,07,194.

(b) **Calculation of AGR for GSM:** Admissible deductions will be allowed as under for calculation of AGR.

(i) Deduction claimed by the Licensee in respect of GSM service on provisional basis subject to finalization of AGR by LF Wing of DoT, HQ and communicated by WPF Wing.

(ii) If consolidated deductions are provided by the Licensee, the admissible deduction will be calculated proportionately as under:

Deduction= Total deduction (given at Sr. No BB of Revenue statement)*Revenue of GSM shown at 'Y' /Gross Revenue (given at Sl. No AA of Revenue statement)

=45,56,28,599 * 96,01,07,194 / 265,49,36,016=16,47,69,431

AGR for GSM = 96,01,07,194 - 16,47,69,431 = 79,53,37,763

ADG (WR)

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11/11/14

